

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SHIRLEY A. ROBERTS,

Plaintiff,

vs.

Civ. No. 01-1262 MCA/WWD

DEBORAH HARTZ, Secretary of the New Mexico
Children, Youth and Families Department, SANDIE
DOUGLAS, Head of the Protective Services
Division; JOHN DOE, JANE DOE; and THOMAS
KUKER, Special Agent in Charge, Albuquerque
Division of the F.B.I.,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter comes before the Court upon Plaintiff's Emergency Motion to Compel F.B.I. to Investigate and Prosecute Possible Offenses Against the United States [docket no. 5]. The motion was filed November 21, 2001, and contains no certificate of service; consequently, it is assumed that the motion was never served on the parties. The motion, which seeks an order directing Defendant Thomas Kuker, Special Agent in Charge, Albuquerque Division of the Federal Bureau of Investigation, "to locate and seize Plaintiff's ward, Ashley Rene Roberts, and to investigate the detention of Ashley as a violation of Plaintiff's civil rights under 18 U.S.C. 242, as kidnaping under 18 U.S.C. 1201, as fraud in federally funded child welfare programs, such as 42 U.S.C. 629 for family preservation, and as racketeering under 18 U.S.C. 1951 through 1969." This action is brought by the *pro se* Plaintiff attacking certain child custody decisions made by the

New Mexico Department of Children, Youth and Families. According to Plaintiff's allegations, Plaintiff has contacted the F.B.I. which refuses to investigate her allegations because it lacks jurisdiction in what is essentially a civil matter. Assuming that this allegation is true, and it seems entirely likely that the F.B.I. would give such a response in these circumstances, the present motion seeks to have the Court to compel the F.B.I. to do something which it does not have jurisdiction to do. There is the additional problem of the Court not having the power to direct the F.B.I. to undertake an investigation in the context of this lawsuit.

WHEREFORE,

IT IS ORDERED that Plaintiff's Emergency Motion to Compel F.B.I. to Investigate and Prosecute Possible Offenses Against the United States [docket no. 5] be, and it is hereby, DENIED.


UNITED STATES MAGISTRATE JUDGE